

## **INITIAL STATEMENT OF REASONS:**

The California Department of Corrections (CDC) proposes to amend Sections 3000, 3005, 3044, 3062, 3313, 3314, 3315, 3323, and 3376 of the California Code of Regulations (CCR), Title 15, concerning inmate work and training incentive groups and rule violations.

The Fiscal Year 2003/2004 Budget Act directs the CDC to provide education programming for day-for-day credit eligible inmates, pursuant to Penal Code (PC) Section 2933, in Reception Centers (RC) and expand the existing education programs within the General Population (GP) at the institutions.

The CDC and the Legislature have long recognized the potential benefits of educational re-entry programs for successful reintegration into the community. As a result, we are incorporating modifications to provide expanded educational opportunities to those eligible inmates within the GP and undergoing RC processing, as well as, the priority assignment of inmates eligible to receive day-for-day credits under PC Section 2933, all of which will be implemented by January 1, 2004.

The CDC plans to implement bridging education programs focusing on education assessment, anger management, cognitive based re-entry orientation, and life skills, along with individual training plans. This will enhance the Department's ability to provide educational opportunities to inmates in RCs and GPs within the institutions; there are currently no educational programs provided in the RCs. In addition, the bridging programs will include the integration of Arts in Corrections programs into the education programs. This bridging education program will better prepare inmates for successful re-entry into society. Monthly status reports will be provided to the Legislature and the Department of Finance relative to the implementation of this program.

These proposed regulations are necessary in order to update the regulations related to inmate work/training and incentive groups, along with discipline, so that the inmates will be able to be properly prioritized and placed in the appropriate work groups based on their behavior and participation in the program. In addition, as a result of the discontinuance of the CDC 191, Inmate Timecard, it has been determined that these regulation changes related to inmate discipline are necessary in order to more effectively deal with inmates who fail to comply with program expectations and/or work performance standards.

The CDC must determine that no alternative considered would be more effective in carrying out the purpose of this action, or would be as effective and less burdensome to affected private persons, than the action proposed.

### **3000. Definitions.**

**Section 3000. This definition is relocated from Section 3062 and amended** to define program failure. The definition has been moved from inmate grooming standards to the definitions section in order to be applicable to the entire Title 15 instead of only grooming standards. This section has also been amended to delete the reference to general population inmates and now refers to any inmate. It has also been amended to increase the time of significant disciplinary history, taken into consideration from 120 days to 180 days, in order to require the inmates to remain disciplinary free for a longer period of time.

This section also includes a new definition for significant work related disciplinary history. This is defined as a guilty finding for two work related serious rule violation reports, or one serious and two administrative work related rule violation reports, within the last 180 days from the current date. This definition is necessary to set forth the guidelines for a significant work related disciplinary history which is in line with the definition of program failure.

### **3005. Conduct.**

**Subsection 3005(a) and (b) are unchanged.**

**Subsections 3005(c) is amended** to read as force or violence instead of force and violence. This change is necessary to correct a clerical oversight when these regulations were originally filed. Pursuant to PC Section 242, battery is any willful and unlawful use of force or violence upon the person of another. This new language now reflects this same definition and is thus in line with the Penal Code.

### **3044. Inmate Work and Training Incentive Groups.**

**Sections 3044(a) through (b)(4) are unchanged.**

**Section 3044(b)(5) is amended** for clarification by rewriting the statement to include that an inmate who refuses to accept or perform in a work/training assignment, or is deemed a program failure, shall earn zero worktime credits. This section was further clarified by removing the unclear statement referring to "frequent work/training violations".

In addition, this section was amended to require an inmate to wait at least 30 days before applying for placement on a work/training waiting list. Previously, the language allowed an inmate to immediately apply for removal from Work Group C, however, this amendment will ensure that the inmate is in Work Group C for a minimum of 31 days following placement.

**Sections 3044(b)(6) through (b)(8) are unchanged.**

**Sections 3044(c) is amended** to include, for clarity purposes, that privileges may be denied, modified, or temporarily suspended by a hearing official at a disciplinary hearing based on findings of guilt. Previously, this section was vague with regards to whom these privileges would be suspended by; therefore, this correction specifically identifies the hearing official as having that authority. This section also includes some non-substantive corrections.

**Sections 3044(c)(3) through (c)(9) are unchanged.**

**Section 3044(d) is unchanged.**

**Section 3044(e)(1)(A) is a newly created subsection which has been relocated from 3044(e)(1) and is unchanged.**

**Section 3044(e)(1)(B) is amended** to allow a hearing officer, or senior hearing officer, to temporarily place an inmate into privilege Group B for up to 30 days for a guilty finding of an administrative CDC Form 115, or a senior hearing officer may place the inmate in privilege Group B for up to 90 days for a guilty finding of a serious CDC Form 115. The inmate will only be eligible for those privileges designated under Section 3044(e)(3).

**Section 3044(e)(2) is amended** to included that inmates in privilege Group B will not be issued a privilege card because privilege Group B inmates are no longer issued privilege cards.

**Sections 3044(e)(3) is unchanged.**

**Sections 3044(f)(1) is amended** to update privilege Group C criteria to include an inmate who refuses to accept or perform in a work/training assignment, or is deemed a program failure as defined in Section 3000.

**Sections 3044(f)(1)(C) through (f)(1)(G) are unchanged.**

**Sections 3044(g), (h), and (i) are unchanged.**

### **3062. Inmate Grooming Standards.**

**Sections 3062(a) through (m) are unchanged.**

**Sections 3062(n) has been amended, relocated to Section 3000, and placed in alphabetical order.**

### **3313. Classification of Rules Violation Report and Notice of Pending Charges.**

**Sections 3313(a) is unchanged.**

**Sections 3013(b) is amended** to include a non-substantive change to replace hearing officer with hearing official.

**Sections 3313(c) is unchanged.**

### **3314. Administrative Rule Violations.**

**Sections 3314(a) is unchanged.**

**Sections 3314(b) through (h) are amended** to include non-substantive changes to replace hearing officer with hearing official. We have also clarified that the suspension of privileges specified by the hearing officer will be for no more than a 30-day period and will start the date the rule violation report was adjudicated. This change is necessary because it clarifies when the 30-day suspension of privileges begins.

We have also added that placement into privilege Group B or C for no more than a 30-day period starting the date the rule violation report was adjudicated, as an additional option for the hearing official. This amendment is necessary in order to specify that the hearing official has the option to place the inmate into privilege Group B or C as a disposition of a guilty finding for an administrative CDC Form 115. The subsequent subsections were renumbered to make room for this new section.

**Sections 3314(i) is adopted** to include classification committee review and describes the hearing official's responsibility to refer disciplinary actions that meet certain criteria. This amendment is necessary to clarify that hearing officials must refer disciplinary actions for possible review by a classification committee when it has been determined that the inmate meets the criteria of a program failure. The referral will be evaluated to determine if a classification committee will need to review the inmate's program, work/privilege group, or housing assignment.

### **3315. Serious Rule Violations.**

**Subsections 3315(a) through (e) are unchanged.**

**Subsections 3315(f)(1) through (f)(4) are unchanged.**

**Subsection 3315(f)(5) is amended** to clarify that the suspension of privileges specified by the hearing official shall start the date the rule violation report was adjudicated, instead of the date of the hearing. This section also includes that the senior hearing officer may choose to place an inmate into privilege Group B or C in lieu of taking specific privileges. That placement will last for no more than a 90-day period and will start the date the rule violation report was adjudicated in order to, more specifically, clarify the exact starting date.

Lastly, subsequent numbering of the subsections has been corrected to make room for the new subsection C.

**Subsection 3315(g) is unchanged.**

### **3323. Disciplinary Credit Forfeiture Schedule.**

**Subsections 3323(a) through (f) are unchanged.**

**Subsection 3323(g) is amended** to include that, Division E offenses now include refusal to work or failure/refusal to perform assigned work, or failure to participate in an assigned work/training program with a significant work related disciplinary history

**Subsections 3323(h) through (k) are unchanged.**

### **3376. Classification Committees.**

**Subsections 3376(a) through (c) are unchanged.**

**Subsection 3376(d) is amended** to clarify that the classification committee's functions has the authority to change the inmate's work/privilege group in order to be consistent with the rest of the subsections. These amendments clarify the different committee's allowable actions pertaining to an inmate's work and training group, and are standardization with the Institution Classification Committees.